

LEGISLATIVE BILL 720

Approved by the Governor April 21, 2008

Introduced by Schimek, 27.

FOR AN ACT relating to telecommunications; to amend sections 49-1474.02, 86-242, 86-247, 86-250, and 86-256, Revised Statutes Cumulative Supplement, 2006; to change requirements relating to recorded political messages and messages delivered using automatic dialing-announcing devices; to harmonize provisions; to provide an operative date; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 49-1474.02, Revised Statutes Cumulative Supplement, 2006, is amended to read:

49-1474.02 (1) Any person who makes an expenditure reportable under the Nebraska Political Accountability and Disclosure Act to disseminate by any means of telecommunication a prerecorded message or a recorded message relating to a candidate or ballot question shall include, immediately preceding in the message, the name of the person, ~~including committees,~~ making the expenditure. Such messages shall be disseminated only between the hours of 8 a.m. and 9 p.m. at the location of the person receiving the messages.

(2) Any person who makes an expenditure reportable under the act to disseminate by any means of telecommunication a message relating to a candidate or ballot question which is not a recorded message or a prerecorded message shall, immediately upon the request of the recipient of the message, disclose the name of the person, ~~including committees,~~ making the expenditure. If the message is disseminated through an employee or agent of the person making the expenditure, the employee or agent shall, immediately upon the request of the recipient of the message, disclose the name of the person, ~~including committees,~~ making the expenditure.

(3) Any person who makes an expenditure reportable under the act to disseminate by any electronic means, including the Internet or email, a message relating to a candidate or ballot question shall include in the message the name of the person, ~~including committees,~~ making the expenditure.

Sec. 2. Section 86-242, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-242 (1) Telephone solicitation means a telephone call or message using an automatic dialing-announcing device for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services, which call or message is transmitted to any person.

(2) Telephone solicitation does not include a call or message ~~(1)~~ (a) made to any person with the person's prior express invitation or permission, ~~(2)~~ (b) made to any person with whom the caller has an established business relationship, ~~(3)~~ (c) made by a tax-exempt nonprofit organization, ~~(4)~~ (d) not made for commercial purposes, ~~(5)~~ (e) made for a commercial purpose but which does not include the transmission of an unsolicited advertisement, or ~~(6)~~ (f) placed by a live operator and a prerecorded message is not utilized.

Sec. 3. Section 86-247, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-247 All telephone solicitation messages ~~delivered~~ transmitted by an automatic dialing-announcing device shall:

(1) At the beginning of the message, state clearly the identity of the person making the call; and

(2) During or after the message, state clearly the telephone number, other than that of the device which made the call, or address of such person.

Sec. 4. Section 86-250, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-250 (1) A person shall not connect or operate an automatic dialing-announcing device for the purpose of making telephone solicitations on any telephone line unless the person has a current permit from the commission for the device. An applicant for a permit shall make a written application to the commission. The application shall be in a form prescribed by the commission and shall require information about the type of device proposed for connection and operation, the time of day telephone solicitations will be made using the device, the anticipated number of calls proposed to be placed during the specified calling period, the average length of a completed call, or such alternative or additional information as the commission may require. If the applicant is an individual, the application shall include the applicant's social security number. The applicant shall remit a fee of five

hundred dollars for each device with the application.

(2) Upon receiving an application for a permit, the commission may grant, grant as modified, or deny the application. The commission may modify or deny the permit if the commission determines that (a) the applicant is unwilling or unable to meet the requirements placed on such operations by law, rule, or regulation or has failed to comply with the requirements in the past, (b) the connection or operation of the device will result in a significant decline in the quality of service or access to service for other telephone users, (c) the applicant's equipment is unable to meet the requirements of law, rule, or regulation, or (d) the application does not contain adequate information.

(3) If a permit is granted, the permit shall remain in force for two years from the date of issuance, and each application for the renewal of a permit shall be treated as a new application.

(4) After receiving a permit but prior to connecting or operating an automatic dialing-announcing device on any telephone line, the permit holder shall notify the telephone company of the telephone line on which the device is proposed to be connected or operated. The telephone line shall be considered a business telephone line. The telephone company shall release to the commission the identity of any person connecting or operating an automatic dialing-announcing device when requested to do so by the commission pursuant to an investigation.

(5) A person contracting with a third party to connect or operate an automatic dialing-announcing device for the purpose of making telephone solicitations on any telephone line shall be jointly and severally liable with the third party for connecting and operating the automatic dialing-announcing device in violation of the Automatic Dialing-Announcing Devices Act or the rules and regulations adopted and promulgated under the act.

(6) A person contracting with a third party to connect or operate an automatic dialing-announcing device for the purpose of making telephone solicitations shall file with the commission the message to be used to comply with the requirements of section 86-247. Such person shall file any subsequent change to the message with the commission within five days after the change.

Sec. 5. Section 86-256, Revised Statutes Cumulative Supplement, 2006, is amended to read:

86-256 (1) Any person using an automatic dialing-announcing device other than for telephone solicitations shall register the device with the commission pursuant to the application process, without a fee, and shall include with the application a detailed explanation of the use planned and the ~~script~~ message to be used.

(2) All telephone messages transmitted by an automatic dialing-announcing device other than telephone solicitations shall:

(a) At the beginning of the message, state clearly the identity of the person on whose behalf the message is being transmitted;

(b) During or after the message, state clearly the telephone number, other than that of the device which made the call, or address of the person operating the device; and

(c) Transmit messages only between the hours of 8 a.m. and 9 p.m. at the location of the person receiving the message.

(3) This section does not apply to (a) a message from any elementary, secondary, or postsecondary educational institution to any of its students, parents, or employees, (b) a message to a person with whom the person placing the call or the person on whose behalf the message is being transmitted has an established business or personal relationship, (c) a message from an employer advising any of its employees of work schedules, or (d) a message from a political subdivision as defined in section 13-903.

(4) A person contracting with a third party to connect or operate an automatic dialing-announcing device for other than telephone solicitations shall be jointly and severally liable with the third party for connecting and operating the automatic dialing-announcing device in violation of the Automatic Dialing-Announcing Devices Act or the rules and regulations adopted and promulgated under the act.

(5) A person contracting with a third party to connect or operate an automatic dialing-announcing device for other than telephone solicitations shall file with the commission the message to be used within twenty-four hours after the message is transmitted.

Sec. 6. This act becomes operative on January 1, 2009.

Sec. 7. Original sections 49-1474.02, 86-242, 86-247, 86-250, and 86-256, Revised Statutes Cumulative Supplement, 2006, are repealed.